

Navy Case No. 82,627

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of :
Louis F. Aprigliano et al. :
Serial No. 09/656,017 : Group Art Unit: 1722
Filed: Sept. 7, 2000 : Examiner: K. Lin
For: METHOD OF PRODUCING CORROSION : CONFIRMATION NO. 2288
RESISTANT METAL ALLOYS WITH :
IMPROVED STRENGTH AND DUCTILITY :

REQUEST FOR RECONSIDERATION AND WITHDRAWAL
OF FINALITY OF FINAL OFFICE ACTION

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This will acknowledge the final Office action dated Nov. 8, 2001 in the above identified application. For reasons hereinafter pointed out, it is believed that such Final Office action is incomplete and therefore premature. Withdrawal of the finality of the Office action is therefore requested pursuant to Section 706.07(d) M.P.E.P.

Claims 1-3 and 5-8 stand finally rejected under 35 U.S.C. 103(a) as unpatentable over any one of three prior art references cited of record (Nakamori et al., Zurecki, et al., and Longo et al.), in view of the Coombs patent cited of record as a secondary prior art reference. According to page 2 in the Final Office action, the only support for such final rejections is based on "the same reasons as set forth in the last Office action". Such reasons however ignore certain claim limitations or features of the invention as now claimed.

According to the last Office action referred to, each of the primary prior art references shows the invention as claimed (before amendment) except for use of Oprey technique for alloy atomizing purposes, allegedly disclosed in the Coombs patent. However by virtue of amendment

preceding the Final Office action, the invention now being claimed has additional features associated therewith. Therefore, the reasons previously set forth in the last Office preceding the Final Office action do not relate to or cover such additional limitations of the invention now being claimed, as previously pointed out by applicant, such as: (1) formation of the alloy coating to both increase strength and maintain ductility; and (2) use of the atomizing technique for alloys having a high chromium content so as to achieve the increase in strength while maintaining ductility.

There are no comments in the Final Office action, including the response to applicant's arguments on page 3, relating to the latter referred to additional features of the invention now being claimed. The Final Office action is therefore incomplete in failing to deal with the presently claimed features of the invention which have been ignored. As to the case law cited in the Final Office action in regard to obviousness judgment, it is inapplicable hereto. Also, it is presently well settled that obviousness judgment is a legal conclusion which must be based on facts established on the record in contrast to reliance on speculation and generalizations in the absence of such facts on the record.

In view of the foregoing, favorable reconsideration of the final rejections of claims 1-3 and 5-8 as stated in the Final Office action is requested if withdrawal of the finality of such Final Office action is not forthcoming because of its incompleteness.

Respectfully submitted,



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